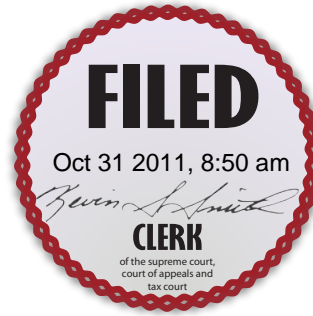


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

M.B. and M.F.,)
)
Appellants-Respondents,)
)
vs.)
)
INDIANA DEPARTMENT OF CHILD SERVICES,)
)
Appellee-Plaintiff.)

No. 79A02-1104-JT-300

APPEAL FROM THE TIPPECANOE SUPERIOR COURT
The Honorable Jennifer M. Fehrenbach, Judge Pro Tempore
Cause Nos. 79D03-1011-JT-166, 79D03-1011-JT-167,
79D03-1011-JT-168 and 79D03-1011-JT-169

October 31, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

M.B. (“Mother”) and M.F. (“Father”) appeal the trial court’s order terminating their parental rights to their minor children An.F. and Aa.F. (collectively “the children”) following an evidentiary hearing.¹ Mother and Father each present three issues for review, which we consolidate and restate as whether the trial court erred when it terminated their parental rights to the children. Concluding that the Indiana Department of Child Services (“DCS”) presented clear and convincing evidence to support the trial court’s judgment terminating Mother’s and Father’s parental rights, we affirm.

FACTS AND PROCEDURAL HISTORY

Mother and Father (“the Parents”) were incarcerated when, on February 7, 2010, Mother gave birth to An.F. and Aa.F.² The children were born prematurely, and both required heart and lung monitors. Additionally, An.F. was born with an abdominal defect that required surgery and a feeding tube. Father was released from incarceration on February 8.

Because of medical issues, the children remained hospitalized following birth. When the children were ready to be discharged from the hospital, DCS filed petitions alleging the children to be Children in Need of Services (“CHINS”)³ because Mother was still incarcerated and there were no other family members who could care for the

¹ The trial court entered termination orders in a separate cause for each child as to each parent. The four cases have been consolidated on appeal.

² Mother’s incarceration at the time of delivery resulted from the revocation of her probation because she had failed a drug screen.

³ The parties have not included copies of the CHINS petitions in their respective appendices, but unexecuted copies of the petitions, which are not file-stamped, are included in the Documentary Exhibits binder of the trial clerk’s record.

children.⁴ When the children were discharged from the hospital, IDC placed them in foster care. Mother was released from incarceration on March 18 and was placed on probation. She moved in with Father, who had already begun using drugs again.

The trial court held a fact-finding hearing on April 20, 2011, and on April 27 adjudicated the children to be CHINS. On the same date the court entered a parental participation decree, ordering the Parents in part to do the following:

- Participate in visitation; duration, supervision, and frequency pursuant to treatment team agreement.
- Participate in Substance abuse treatment and follow all recommendations.
- Participate in a Parenting assessment and follow all recommendations.
- Participate in home-based case management services.
- Remain drug[-]free and submit to drug screens as requested by DCS.
- Sign all releases requested by DCS.

DCS Exhibit 2 at 9, DCS Exhibit 3 at 9.

Mother failed a drug screen on May 4. And after learning of a warrant for her arrest due to the failed drug screen, she used heroin. The State filed a petition to revoke her probation, and on May 24 she was arrested and remained incarcerated until late December 2010.⁵

On November 23, DCS filed petitions to terminate Mother's and Father's parental rights.⁶ Following a permanency hearing in the CHINS case on December 1, the trial court entered an order changing the permanency plan for the children from reunification

⁴ Father said he could not care for the children because of his work schedule.

⁵ In her brief, Mother states that she was arrested May 23 instead of May 24. The date discrepancy is irrelevant to the determination of the issues raised on appeal.

⁶ DCS filed a separate petition to terminate parental rights for each parent as to each child, resulting in four cause numbers. Father has included copies of the petitions to terminate his parental rights in his appendix. Mother has not included in her appendix copies of the petitions to terminate her parental rights.

to adoption. Meanwhile, in Mother's criminal proceedings, she pleaded guilty on December 16, 2010, to possession of a narcotic drug, as a Class D felony, and she admitted to the allegations in the petition to revoke her probation. The trial court sentenced her to seven years, execution of which was stayed because Mother had been accepted into the Forensic Diversion Program ("Diversion Program"). She was released from incarceration to the Diversion Program on December 28.

On February 10, 2011, the trial court held a hearing on DCS' petitions to terminate Mother's and Father's parental rights. At that time, Father was incarcerated with an anticipated release date in 2012 and Mother was in the Diversion Program and expected to be released from the work release facility to house arrest on March 2. On March 4, the court entered an order on the four petitions to terminate ("Order"), which provides in relevant part as follows:

The allegations of the petition[s] are true in that: the children have been removed from their parent(s) for at least six (6) months under a dispositional decree of this Court, Cause Number 79D03-1002-JC-000044 and 79D03-1002-JC-000043. There is a reasonable probability that the conditions resulting in the removal of the children from their parents' home will not be remedied.

There is a reasonable probability that a continuation of the parent-child relationship will pose a threat to the well-being of the children.

It is in the best interest of the children that the parent-child relationship[s] be terminated.

The Tippecanoe County Department of Child Services has a satisfactory plan for the care and treatment of the children which is adoption.

The Court grants said petition[s], and it is ordered that the parent-child relationship[s] between [An.F.] and [Aa.F.], the children, and [Mother] and [Father], the parent(s), be, and the same hereby are terminated, and all rights, powers, privileges, immunities, duties and obligations (including the

right to consent to adoption) pertaining to th[ose] relationship[s] are hereby permanently terminated.

* * *

The Court specifically finds as follows:

2. [M.B.] is the natural mother and [M.F.] is the natural father of [Aa.F.] and [An.F.], born February 7, 2010, currently age 1.
3. The father is currently incarcerated.
4. The mother is currently incarcerated.
5. The mother has five children, including the two currently at issue. None of these children are in her care.
6. The mother's oldest daughter, [V.], who is fourteen, was adopted by mother's grandmother at six months of age.
7. The mother's son, [D.], who is twelve, is in the custody of his father in Kansas. The mother has not seen [D.] in over eleven years. The mother does speak with [D.] on the phone and send him letters. The mother's child support obligation for [D.] is not current.
8. The mother and father's daughter, [N.], who is three, is in a guardianship with the mother's grandfather. Both parties were incarcerated at the time of [N.]'s birth. There was no evidence of any contact that the mother and father have with [N.], except during court[-]ordered visitation through this case. The mother's child support obligation for [N.] is not current. There was no evidence provided regarding the existence of a child support obligation owed by the father for [N.]
9. The father has three children, including the two currently at issue. None of these children [are] in his care.
10. The mother took illegal drugs during the last three of her four pregnancies.
11. The mother gave birth to her three youngest children during two separate instances of incarceration.
12. At the time of her birth, [Aa.F.] had to wear a lung and heart monitor and had a feeding tube.
13. At the time of his birth, [An.F.] had to wear a lung and heart monitor and had a feeding tube.
14. At the time of the initial reports, neither the mother nor the father had the ability to provide physical care for [Aa.F] and [An.F.] as [a] result of the parents' drug addictions.
15. The father was released from incarceration a day after the removal of [An.F] and [Aa.F.], but was unable to care for the children due to his work schedule.

16. The father relapsed the day of his release, which was February 8, 2010. This was the day after the children were removed by [DCS] on February 7, 2010.
17. The mother was released from incarceration March 20, 2010.
18. Upon her release, the mother chose to move in with the father who was already actively using drugs again.
19. The mother had the opportunity to exercise visitation from March 2010 through May 2010. During this time, the mother was late to a visitation and no[-]showed two visitations.
20. The mother relapsed in April 2010. Upon learning there was a warrant for her arrest, she subsequently took heroin.
21. The mother and father have shown a pattern of chronic drug use. The father has used drugs since the age of seventeen. The mother has been using drugs since the age of nineteen.
22. The father's drug of choice is heroin. The mother's drug of choice is cocaine.
23. The father failed numerous drug screens during this case.
24. The father is currently unemployed.
25. The father has acknowledged the hold his drug addiction has on him.
26. The father has participated in drug treatment numerous times. This has included the CLIFF program while incarcerated, the Matrix program, two stays at Home with Hope, New Directions, Serenity Park, and Southlake.
27. [DCS] provided outpatient drug treatment for the father through Wabash Valley Hospital. The father only completed the initial assessment for the program.
28. [DCS] did not provide inpatient drug treatment for the father because [DCS] does not pay for inpatient drug treatment.
29. The father, of his own accord, began an inpatient drug treatment program at St. Joseph's in Kokomo, Indiana during this case.
30. The father left the program at St. Joseph's after forty-eight hours. He checked himself out of the program.
31. The father planned to attend an inpatient drug treatment program at Safe Harbor, but was arrested before he was able to get to that program.
32. The mother planned to attend an inpatient drug treatment program at Safe Harbor, but was arrested before she was able to get to that program.
33. Both parents were arrested on May 24, 2010.
34. Both of the parents have a history of frequent incarceration.
35. The father has been incarcerated for eight of the last twelve years.
36. During her drug treatment through Wabash Valley Hospital, the mother was diagnosed with post traumatic stress disorder at Wabash Valley Hospital by Sue Anthony. Sue Anthony advised the mother

- to return for mental health counseling to address this issue following her completion of the Matrix program and the intensive outpatient drug treatment program for the mother's drug issues. The mother was arrested before completing the intensive outpatient program.
37. The mother underwent two psychological evaluations[,] one in 2007 and one in 2010, during periods of incarceration. She did not provide these evaluations to [DCS] or advise them that such evaluations existed until her testimony during the fact-finding hearing on the Petition[s] to Terminate Parental Rights.
 38. The longest period of time that the mother has had custody of any of her five children is eight months.
 39. The mother is in the forensic diversion program. She is currently in the work release program. If all goes perfectly, she will transition from work release to Seeds of Hope on March 2, 2011, and would be able to transition into an apartment through that program on April 2, 2011. The program would allow her to have her children in the apartment.
 40. As a requirement of the forensic diversion program, the mother is participating in [an] intensive outpatient drug treatment program at Turning Point, is attending NA meetings almost every day, is taking frequent urine screens, is attending weekly meetings at the courthouse, and has obtained a sponsor. The mother is on step one of the twelve step program.
 41. The mother is employed full time with Kirby Risk Precision Machine Shop and is earning \$10.00 gross per hour.
 42. The mother has arranged for daycare for the children at a cost of \$150.00 per week.
 43. The mother estimates that individual mental health counseling, which she believes she needs, would cost \$100.00 per week without insurance.
 44. The mother will have insurance in sixty days.
 45. The mother does not believe she can afford individual counseling and does not intend to start individual counseling until her insurance starts.
 46. The mother has obtained a Plymouth Voyager van, which runs. She has insurance on the van.
 47. Although the mother is currently taking positive steps toward getting her life on track, she is not capable of having the children in her care at this point; she has not shown the ability to independently parent one child at a time let alone two; and she has not shown the ability to maintain sobriety outside an institutionalized setting. Further, she has professed the need for mental health counseling, but has acknowledged that she had this need prior to this case and chose not to prioritize that need.

48. It would be detrimental to [An.F.]’s and [Aa.F.]’s development to prolong permanency any further.
49. [DCS] provided the family with the following services:
 - A. Foster care placement for [the children],
 - B. Parenting classes,
 - C. Outpatient drug treatment for the father through Wabash Valley Hospital,
 - D. The Matrix program at Wabash Valley Hospital for the mother,
 - E. Intensive outpatient drug treatment for the mother through Wabash Valley Hospital,
 - F. Supervised visits for [the children] with the mother,
 - G. Supervised visits for [the children] with the father,
 - H. Supervised visits for [the children] with their sister [N.],
 - I. Home[-]based case management through Child and Family Partners,
 - J. Random drug screens, and
 - K. Family team meetings.
50. Despite the array of services provided by [DCS], the mother and father are currently incarcerated, continue to be addicted to drugs, are unable to provide for the physical needs of the children, and are unable to provide for the emotional needs of the children.
51. [The children] have been removed from their mother and father for at least six months under a Dispositional Decree issued April 28, 2010, under Cause Numbers 79D03-1002-JC-44 and 79D03-1002-JC-43, and have been out of the mother’s and father’s homes and under the supervision of the [DCS] since that time.
52. There is a reasonable probability that the mother and father’s failure to meet the physical and emotional needs of [the children], the frequent incarceration of both parents, and both parents’ drug addictions will not be remedied.

Father’s App. at 16-18, Mother’s App. at 38-40.⁷ The Order terminated Mother’s and Father’s parental rights to An.F. and Aa.F. Mother filed a motion to correct error, which the trial court denied. Mother and Father now appeal.

⁷ Because Father and Mother both submitted appendices, we cite to the appendices as “Father’s App.” and “Mother’s App.” respectively. Similarly, we will cite to their appellate briefs as “Father’s Brief” and “Mother’s Brief” respectively.

DISCUSSION AND DECISION

We begin our review by acknowledging that this court has long had a highly deferential standard of review in cases concerning the termination of parental rights. Schultz v. Porter County Office of Family & Children (In re K.S.), 750 N.E.2d 832, 836 (Ind. Ct. App. 2001). When reviewing a termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. Peterson v. Marion County Office of Family & Children (In re D.D.), 804 N.E.2d 258, 265 (Ind. Ct. App. 2004), trans. denied. Instead, we consider only the evidence and reasonable inferences that are most favorable to the judgment. Id. Moreover, in deference to the trial court's unique position to assess the evidence, we will set aside the court's judgment terminating a parent-child relationship only if it is clearly erroneous. (J.S. v. Noble County Office of Family & Children (In re L.S.), 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), trans. denied, cert. denied, 534 U.S. 1161 (2002). A judgment is clearly erroneous only if the findings do not support the trial court's conclusions or the conclusions do not support the judgment thereon. Bester v. Lake County Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). Thus, if the evidence and inferences support the trial court's decision, we must affirm. In re L.S., 717 N.E.2d at 208.

A parent's interest in the care, custody, and control of his or her children is arguably one of the oldest of our fundamental liberty interests. Bester, 839 N.E.2d at 147. Hence, "[t]he traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution." Bailey v. Tippecanoe County Div. of Family & Children (In re M.B.), 666 N.E.2d 73, 76 (Ind. Ct.

App. 1996), trans. denied. These parental interests, however, are not absolute and must be subordinated to the child's interests when determining the proper disposition of a petition to terminate parental rights. Id. In addition, although the right to raise one's own child should not be terminated solely because there is a better home available for the child, parental rights may be terminated when a parent is unable or unwilling to meet his or her parental responsibilities. In re K.S., 750 N.E.2d at 836.

Before an involuntary termination of Mother's parental rights may occur, the State is required to allege and prove:

(A) that one (1) of the following exists:

(i) the child has been removed from the parent for at least six (6) months under a dispositional decree. . . .

(B) that one (1) of the following is true:

(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied.

(ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.

* * *

(C) that termination is in the best interests of the child; and

(D) that there is a satisfactory plan for the care and treatment of the child.

Ind. Code § 31-35-2-4(b)(2)(A)-(D) (2011). Moreover, "[t]he State's burden of proof in termination of parental rights cases is one of 'clear and convincing evidence.'" R.Y. v. Ind. Dep't of Child Servs. (In re G.Y.), 904 N.E.2d 1257, 1260-61 (Ind. 2009) (quoting Ind. Code § 31-37-14-2 (2008)).

Here, Father and Mother filed separate appeals. We consider each parent's appeal in turn.

Mother's Appeal⁸

Mother contends that the trial court erred when it found that a reasonable probability exists that the conditions that resulted in the children's removal or the reasons for placement outside the home of the parents will not be remedied. In particular, Mother challenges three findings of fact⁹ and two ultimate conclusions supporting the termination of parental rights. We address each contention in turn.

Mother first contends that the trial court erred when it found that Mother was currently incarcerated.¹⁰ We must agree. Mother testified at the termination hearing that she was employed full-time and was participating in the Diversion Program. But the fact remains that she was on work release at the time of the hearing. Mother does not state where she was residing when not at work as of the date of the termination hearing, but she does not challenge the finding that she was scheduled to be released to Seeds of Hope on March 2, three weeks after the termination hearing. On these facts we cannot say that Mother was free from incarceration on the date of the termination hearing. And to the extent Mother is defining incarceration differently, she neither states that definition nor explains her argument under it. In any event, such an argument amounts again to a

⁸ We observe that Mother's brief on appeal is not double-spaced as required by Indiana Appellate Rule 43(E). We remind appellate counsel to comply with this rule in the future.

⁹ DCS maintains that Mother has not challenged the trial court's factual findings. But in her brief on appeal, Mother's directly challenges three of the trial court's findings.

¹⁰ Although not clear from the Order, we presume that the trial court's finding means that Mother was incarcerated at the time of the termination hearing.

request that we reweigh the evidence, which we cannot do. See In re D.D., 804 N.E.2d at 265. Thus, Mother's contention must fail.

Next Mother argues that the trial court "incorrectly found that Mother was not participating in individual therapy at the time of the termination of parental rights hearing."¹¹ Mother's Brief at 13. In support she cites her testimony at the termination hearing. But Mother does not explain how the cited testimony shows that the relevant finding is clearly erroneous. As such, the argument is waived. See App. R. 46(A)(8)(a). Waiver notwithstanding, Mother's reliance on her own testimony in challenging the finding amounts to a request that we reweigh the evidence, which we cannot do. See In re D.D., 804 N.E.2d at 265. Thus, Mother's contention must fail.

Mother also contends that the evidence does not support the following finding: "Despite the array of services provided by [DCS], the mother and father are currently incarcerated, continue to be addicted to drugs, are unable to provide for the physical needs of the children, and are unable to provide for the emotional needs of the children." Mother's App. at 40. In support she states merely that "[t]he evidence produced at the trial here do[es] not support the finding of the trial court[.]" Mother's Brief at 15. But Mother does not support that argument with cogent reasoning or citations to the record. Thus, the argument is waived. App. R. 46(A)(8)(a). Waiver notwithstanding, again, Mother's argument again amounts to a request that we reweigh the evidence, which we cannot do. See In re D.D., 804 N.E.2d at 265. Mother has not shown that the finding is clearly erroneous.

¹¹ The finding at issue states: "The mother does not believe she can afford individual counseling and does not intend to start individual counseling until her insurance starts." Mother's App. at 40.

Next Mother challenges the trial court's conclusion that there is a reasonable probability that the conditions resulting in the removal of the children will not be remedied. She acknowledges that the court's conclusion was based on the following: that she was incarcerated when the children were born; that she has a history of frequent incarceration; that upon her release from jail she moved into an apartment with Father, who was using drugs at the time; and that she had a pattern of chronic drug use. But the trial court also found that Mother had relapsed and began using drugs again a short time after moving in with Father; that Mother had been arrested before completing intensive outpatient therapy for her addiction; that Mother had never sought treatment for her addiction or mental health issues before the CHINS proceeding was instituted; that at the time of the termination hearing mother was participating in the Diversion program and would transition to independent living in an apartment, where she could live with the children, no earlier than April 2.

Mother had indeed made some progress by successfully participating to date in the Diversion Program and attempting to arrange for individual therapy. And she had severed her relationship with Father, with whom she had a history of relapsing. But the evidence also shows that at the time of the termination hearing Mother was unable to care for the children. Her addiction persisted, she had not completed the program provided by DCS to treat her addiction, and her living arrangements were not yet independent because she was on work release through the Diversion Program.

The trial court found that Mother was

not capable of having the children in her care [on the date of the termination hearing]; she has not shown the ability to independently parent

one child at a time let alone two; and she has not shown the ability to maintain sobriety outside an institutionalized setting. Further, she has professed the need for mental health counseling, but has acknowledged that she had this need prior to this case and chose not to prioritize that need.

Mother's App. at 40. Despite Mother's progress, on the day of the termination hearing she was not in a position to care for the children for the same general reasons that she was unable to do so on the day the children were born. And she would not come to be in a position to care for the children until two months after the termination hearing at the earliest.

Still, Mother argues that the trial court erred because it made no finding regarding how her visits with the children were. But she points to no evidence in the record regarding the nature of those visitations. Thus, that argument is waived. See App. R. 46(A)(8)(a). She also stresses that at the time of the termination hearing she was financially supporting herself; that she had cut off all contact with Father; that, according to the trial court, she "is currently taking positive steps toward getting her life on track[.]" Mother's App. at 40. The trial court should judge a parent's fitness to care for her children at the time of the termination hearing but also take into consideration habitual patterns of conduct. See In re L.S., 717 N.E.2d at 209. Mother's emphasis of findings showing her progress is, again, a request that we reweigh the evidence, which we cannot do. In re D.D., 804 N.E.2d at 265.

Mother also argues that DCS "failed to comply with Indiana law[] and deprived Mother of the opportunity to further her quest to reunify with her children" because DCS did not seek a psychological evaluation of Mother despite Mother having related to DCS her psychological issues. But the trial court found that Mother had not provided DCS

with copies of earlier psychological evaluations and had not even “advise[d] them that such evaluations existed until her testimony during the fact-finding hearing on the Petition[s] to Terminate Parental Rights.” Mother’s App. at 39. The court also found that Mother had previously been aware of her need for mental health services and chose not to prioritize that need. Mother does not challenge those findings.

Moreover, DCS provided Mother with services to treat her addiction, but at the time of the termination hearing Mother had not completed any of that treatment. And Mother’s argument that an individual psychological evaluation and resulting treatment “could very well have been the most important service” is speculative. Mother’s Brief at 14. Mother has not shown that DCS did not meet its burden of proof because it failed to order a psychological evaluation of or services for Mother. Thus, we conclude that Mother has not shown that the trial court erred when it concluded that there is a reasonable probability that conditions resulting in the children’s removal would not be remedied.¹²

Finally, Mother contends that the evidence does not support the trial court’s conclusion that termination of her parental rights is in the children’s best interests.¹³ In support Mother repeats her argument that DCS should have offered her mental health services before or at the same time as her drug treatment. She also observes that she did

¹² Because the evidence supports the trial court’s conclusion that there is a reasonable probability that the conditions resulting in the children’s removal would not be remedied, we need not consider Mother’s argument that the trial court erred in concluding that continuation of her relationship poses a threat to the children’s well-being. See Ind. Code § 31-35-2-4(b)(2)(B).

¹³ The heading to this section of Mother’s Brief refers to Father’s parental rights to three children, but the substance of that part of the brief relates to the best interests of As.F. and Al.F. and Mother’s parental rights.

not have any prior involvement with DCS, her visitations with the children were positive, she “enjoyed a strong bond with her children,” and she had taken advantage of the services offered to her. Mother’s Brief at 18. She further observes that the children’s Court Appointed Special Advocate (“CASA”) had had minimal contact with the children and had not relied on any studies to support her statement that termination was in the children’s best interests.

But it is well-settled that a court need not wait until children are irreversibly harmed such that their physical, mental, and social development is permanently impaired before termination of the parental-child relationship. R.G. v. Marion County Office, Dep’t of Family & Children, 647 N.E.2d 326, 328 (Ind. Ct. App. 1995), trans. denied. A child’s need for permanency is an important consideration in determining the best interests of a child, and the testimony of the service providers may support a finding that termination is in the child’s best interests. A.S v. Ind. Dep’t of Child Servs. (In re A.K.), 924 N.E.2d 212, 224 (Ind. Ct. App. 2010) (citations omitted). Also, a “parent’s historical inability to provide adequate housing, stability and supervision coupled with a current inability to provide the same will support a finding that termination of the parent-child relationship is in the child’s best interests.” Id. (internal quotation marks and citation omitted).

Here, again, the CASA testified that the children are bonded with their foster mother, that Mother has never lived with the children, that at the time of the termination hearing Mother would not have been in a position to do so for another two months, and that adoption was in the children’s best interests. Further, the children were removed at

birth because Mother could not care for them while incarcerated and was unable to arrange for someone to care for them until her release. Mother's situation has not changed in that, at the time of the termination hearing, she was still serving time, albeit it through the Diversion Program, and as a result was unable to provide a home for her children. Indeed, throughout the pendency of the CHINS and termination proceedings, Mother was never in a position to provide a home for the children and had not completed treatment for her addiction nor had she substantially begun treatment for her mental health issues. On these facts, we cannot say that the trial court erred when it concluded that termination of Mother's parental rights was in the children's best interests.

Father's Appeal

Father contends that the trial court erred when it terminated his parental rights. But the majority of his appellate brief details why Mother's parental rights should not have been terminated. At the end, Father then argues that, because Mother's rights were erroneously terminated, his rights were also erroneously terminated. Father has cited no legal authority to support such a piggyback argument. As such, the argument is waived. See App. R. 46(A)(8)(a). Nor has Father shown that he has standing to appeal the order on behalf of Mother. As such, Father's argument based on the Order as it relates to Mother is unpersuasive.

Father presents a single argument on appeal relating in particular to the termination of his parental rights. He argues that DCS did not meet its burden to show a reasonable probability the reasons for the children's removal would not be remedied. In support he states only that "[t]he DCS never offered or suggested that the father receive

inpatient substance abuse treatment. Their [sic] only explanation was that they [sic] didn't have a contract for those services. The trial Court indicated concern over whether the DCS had met its responsibility to provide appropriate services. (TR pp. 99-107)[.]” Father’s Brief at 9. As such, he argues, the evidence “indicates that not all reasonable efforts have been employed in this case to reunited these children with one of their parents. The case has not reached a ‘last resort’ stage.” Father’s Brief at 9-10.

Father contends that DCS has not met its burden because it did not provide him with inpatient treatment for his addiction. But Father attempted outpatient treatment multiple times without success. Moreover, he checked himself in for inpatient treatment during the pendency of the CHINS proceeding and, without explanation, checked himself out forty-eight hours later. Given that Father did not comply with self-sought treatment, he cannot now be heard to argue that DCS failed to meet its burden because it did not provide the same service. Father’s argument must fail.¹⁴

Conclusion

In sum, Mother has not shown that the trial court erred in its findings of fact, in finding a reasonable probability that the reasons for the children’s removal and subsequent placement outside the home would not be remedied, or in finding that termination of her parental rights is in the children’s best interests. As such, Mother has not shown that the trial court erred when it terminated her parental rights. And Father has not shown that the termination of his parental rights should hinge on the propriety of the

¹⁴ Although Father does not raise the issue, we observe that the trial court erroneously found in paragraphs 15 and 16 that Father was released from incarceration the day following the children’s removal by DCS. In fact, the evidence shows that Father was released from incarceration on February 8, the day following the children’s birth. Nevertheless, the remaining findings and conclusions in the Order support the trial court’s termination of Father’s parental rights.

trial court's order terminating Mother's parental rights. Nor has he shown that DCS failed to meet its burden of demonstrating reasonable probability that the reasons for the children's removal would not be remedied by failing to provide specific inpatient treatment for Father. As such, Father also has not shown that the trial court's order terminating his parental rights is clearly erroneous.

Affirmed.

RILEY, J., and MAY, J., concur.